

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend and adopt assorted Articles and Sections, in part, to the recently reorganized Subchapter 6, under Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 3, concerning Adult Parole. Specifically, the following Sections have either been amended, revised, relocated, renumbered or adopted: 3500, 3501, 3502, 3600, 3610, 3620, 3625, 3630, 3640, 3730, and 3740.

The CDCR and the Legislature have long recognized that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and the surveillance of parolees, including the judicious use of revocation actions and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge.

These regulations begin the process for the update of reorganized Subchapter 6 by the CDCR's Division of Adult Parole Operations (DAPO). Amended text will update assorted Articles and Sections, not necessarily in a straight numerical order, but instead, as work is prioritized by DAPO. The purpose is to update the text for clarity and consistency and to bring the regulations up to meet departmental standards and requirements within the Adult Parole process.

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective, and less burdensome to affected private persons, than the action proposed.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

The Department in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

Title to Subchapter 6 is amended to read Adult Parole. This is necessary to more clearly define the content of the regulations.

Title to Article 1 is amended to change the title from Parole Release to Parole Supervision. This change more accurately reflects the title of the subject matter under this Article.

Existing Section 3500 is renumbered 3501 for more appropriate order.

New Section 3500 title is adopted.

3500. General Policy.

New Section 3500 is adopted to provide in reorganized Subchapter 6, a logical beginning by describing the General Policy of the release to adult parole.

New Subsection 3500(a) specifies that pursuant to Penal Code (PC) Section 3000, when an inmate is sentenced under PC Section 1168 or 1170, the Department shall release the inmate on parole unless it is waived by the Board of Parole Hearings. This change clarifies the basic policy and brings the regulations into compliance with PC Section 3000.

New Subsection 3500(b) clarifies and defines “release on parole” which is a term used throughout these regulations and the parole process.

New Subsections 3500(c), (c)(1) and (c)(2) provide for clarity, the function of parole which is the supervision and surveillance of parolees, and to provide educational, vocational, family and personal counseling necessary to assist the parolee in the transition between imprisonment and discharge, when feasible.

New Subsections 3500(d), (d)(1), (d)(2) and (d)(3) provide for clarity and directive, in general terms, how public safety and security will be provided and ensured through inmate/parolee treatment programs, employee training, and that the requirement of compliance with conditions of parole, the law, and the need to protect the public will take precedence over all other considerations within the parole process.

Existing Section 3501 is renumbered 3730 for reorganization and a more appropriate numerical placement.

Existing Section 3500 has been relocated, renumbered 3501 and re-titled “Rules and Regulations.”

3501. Rules and Regulations.

New Section 3501 is amended for correction by deleting reference to the abolished Board of Prison Terms and Narcotic Addict Evaluation Authority, and replacing it with the correct reference to “Board of Parole Hearings.” This change is the result of the reorganization of the CDCR on July 1, 2005. In addition for correction, reference to the California Administrative Code is changed to reflect the California Code of Regulations.

3502. Prerelease Referral.

Section 3502 is amended to change the number of days when an inmate’s case shall be referred to the parole region for parole program development. To ensure sufficient time to assign the inmate’s case to a parole unit for investigation, text reference to the number of days has been changed from 120 to 150 days.

Article 7. Parole Searches

3600. Searches of Parolees.

Subsection 3600(a) is unchanged.

Subsection 3600(b) is amended for clarity by adding “by departmental staff” in reference to property seized as evidence. Also, reference to the CDC Form 1136 has been changed for correction by showing the latest version of the form which has been revised since the revision date of 6/88. New text now reflects CDCR Form 1136 (Rev. 10/06), Evidence Report and Inventory Receipt.

Subsection 3600(c) is unchanged.

Subsection 3600(d) is amended for clarification and update by adding new text specifying that a parole agent’s authority to search or arrest a parolee “applies to all law enforcement officers in California as long as it is judicious and conducted for legitimate law enforcement purposes.” This change provides a clearer understanding of the authority delegated to law enforcement officers in California when it relates to search or arrest of a parolee, and that other law enforcement agencies no longer need to first call the parole agent to obtain his or her permission to conduct a parole search. This change ensures compliance with current law as it relates to parole searches.

Subsection 3600(e) is amended to provide a correct a name change. Text reference to the State Board of Control has been replaced with the Victim Compensation and Government Claims Board, which is the correct name of the agency charged with processing claims needed to recover repair costs for damages to a structure resulting from staff forced entry.

Article 9. Parole Outpatient Clinic

3610. Parole Outpatient Clinic Services.

Section 3610 is being amended to update its regulations and bring them into compliance with changes that have taken place within the Department regarding the expansion and enhancement of mental health services delivered by DAPO's existing Parole Outpatient Clinics (POC) throughout the state. Text has been amended for enhanced clarity, and deletes obsolete language and replaces it with new language and terminology brought about by operational necessity.

Subsection 3610(a) is amended to provide more appropriate language describing the purpose of the POC. New text provides that the POC has been established to provide mental health assessments and outpatient mental health treatment, if needed, to parolees.

Subsection 3610(b) is amended to provide that any time during the period of parole, the parole agent of record may refer a parolee to a POC for a screening evaluation to determine the need for a full mental health assessment. Subsections (b)(1) through (b)(1)(E), which provided in existing text, the circumstances that a parolee may exhibit that required a referral to a POC, are deleted. The criteria for a mandatory referral to POC have changed and are now provided in Subsections 3610(f) through (f)(4).

Existing Subsection 3610(b)(2) is relocated and renumbered new Subsection 3610(d).

Existing Subsection 3610(c) is relocated and renumbered new Subsection 3610(h).

New Subsection 3610(c) is adopted to provide for clarification and directive to staff, that POC clinical staff shall provide a mental health assessment for each referred parolee to determine if there is a need for transitional or sustained therapeutic intervention on an outpatient basis and if therapy is deemed necessary, the parolee shall be assigned to attend a POC for mental health treatment. Additional text provides that all records of mental health diagnosis, evaluation and treatment shall be considered confidential in accordance with Subsection 3361(c).

New Subsection 3610(d), relocated and renumbered from existing Subsection 3610(b)(2), is amended for clarification and directive by providing that a parole agent of record shall impose a special condition of parole to participate in a POC on all parolees assigned by clinical staff to attend POC for treatment.

New Subsection 3610(e) is adopted. New text establishes and clarifies for both staff and parolees, that a parolee whom a special condition of parole to attend a POC has been imposed, and who is absent without being excused by their parole agent of record or the POC clinician, or whose stated reasons for absence are later determined by the parole agent of record to be false, shall be considered in violation of their parole conditions.

New Subsections 3610(f) through (f)(4) are adopted for clarity and directive by specifying the circumstances that require a mandatory referral to a POC for a mental health assessment. This new language provides a wider range of circumstances that will provide for more parolees in need, the help and resources that will ensure a more successful parole and reentry back into society.

New Subsection 3610(g) is adopted to specify that parolees who are prescribed psychotropic medications shall be given information about the medications, such as possible side effects, that will enable the parolee to make an informed decision prior to taking the medication. Text also provides that the parolee shall provide written informed consent in compliance with sections 3353 and 3363(d) of the Title 15, Division 3 regulations.

Existing Subsection 3610(c) is relocated and renumbered 3610(h) and amended to clarify the reference to staff. New text now provides that "the parole agent of record in concert with POC staff" shall assist the parolee/releasee in obtaining the services from a community mental health agency.

Section 3610 authority and reference citation is amended to update Penal Code Sections in the reference section.

Article 10. Civil Addicts

3620. Special Requirements of Civil Addict Release or Parole.

Section 3620 is amended for correction. Reference to the abolished Narcotic Addict Evaluation Authority is changed to the Board of Parole Hearings. This change is the result of the reorganization of the CDCR on July 1, 2005.

3625. Civil Addict Program Exclusion

Section 3625 is amended to clarify the requirements of Section 3053 of the Welfare and Institutions Code which requires the CDCR to notify the court whenever a person is not fit for confinement or treatment in a narcotic detention, treatment, and rehabilitation facility, and that the parolee shall be returned to the court in which the case originated for further proceedings on the criminal charges that the court may deem warranted.

Subsection 3625(a) is amended to update text to correctly reflect the requirements of Welfare and Institutions Code Section 3053.

Subsections 3625(b) through (b)(7) are unchanged.

Subsection 3625(b)(8) is amended. For correction, the last word “weapons” has been changed to remove the “s” so that it now reads “weapon.”

Subsection 3625(b)(9) is unchanged.

New Subsection 3625(c) is adopted to require departmental staff to state that the decision to exclude a person from the civil addict program will be the result of a case conference with the unit supervisor. This is necessary to ensure that the decision to exclude a parolee from the civil addict program is viable, on sound ground, as well as to meet the intent and goals of the Civil Addict Program.

New Subsection 3625(d) is adopted to require the parole agent to send the releasee or civil addict parolee a notification letter advising him or her that an exclusion letter will be sent to the originating court in 15 calendar days unless the releasee or civil addict parolee reports to the parole agent in person. This is necessary to address the obligation of each releasee or civil addict parolee to be aware of and apply all laws and regulations regarding the exclusionary process relative to their continued participation in the Civil Addict Program. It is also necessary to ensure that the releasee or civil addict parolee has every opportunity to correct his behavior before referring the matter back to the court.

New Subsections 3625(e) through (e)(5) are adopted to require that the parole agent prepare and submit an exclusion letter for the signature of the Warden of the California Rehabilitation Center. This is necessary to inform institutional staff of the conduct and/or behavior of the releasee or civil addict parolee, and to require the Warden’s signature on the exclusionary letter being sent to the originating court. Subsections (e)(1) through (e)(5), for clarification, identify the required elements of an exclusionary letter.

New Subsection 3625(f) is adopted to require the receipt of a Minute Order from the originating court vacating the commitment before canceling a warrant for the releasee or civil addict parolee’s arrest. This is necessary to prevent the premature canceling of a warrant prior to receipt of a Minute Order from the originating court that vacates the commitment.

New Subsections 3625(g) through (g)(3) are adopted to require that the Department contact the court when the parole agent becomes aware that a releasee-at-large who had previously been recommended for exclusion is arrested, in order to determine whether or not the releasee or civil addict parolee’s

commitment has been vacated. This is necessary in order to ensure that the originating court has acted to vacate the releasee or civil addict parolee's commitment when the parolee at large has been arrested and the Department has not received the Minute Order from the originating court vacating the commitment.

Subsections (g)(1) through (g)(3) provide the specific requirements necessary regarding the placement of a detainer on a releasee-at-large or parolee-at-large when determining whether or not the court has vacated the releasee or civil addict parolee's commitment. This is necessary to ensure that a detainer is placed only when appropriate, and then only until such time as a decision is made to either proceed with the exclusion process or to act to rescind the exclusion recommendation.

Article 11. Illegal Aliens

3630. Limitations of Parole Services.

Subsection 3630(a) is unchanged.

Subsection 3630(b) is amended to provide a correct name change. Text referencing the United States Immigration and Naturalization Services is changed to now read, United States Immigration and Customs Enforcement.

Subsections 3630(c) through (e)(3)(C) are unchanged.

Subsection 3630(e)(3)(D) is amended for correction. The word "Cancellization" has been changed to now correctly reference "Cancellation" with the "iz" deleted.

Subsection 3630(e)(4) is unchanged.

Reserved Article 12 and title are adopted.

Article 12. Parolee Field Files

Reserved Section 3640 title is adopted.

3640. Parolee Field Files.

Reserved Section 3640 is now adopted. For clarification, new text defines the Parolee Field File and provides the rules concerning its access and use.

New Subsection 3640(a) is adopted to provide the definition of a parolee field file.

New Subsection 3640(b) is adopted to establish and clarify, the only means by which a parolee or their attorney or the attorney's designee may have access to another parolee's field file.

New Subsection 3640(c) is adopted to establish that parolees may review their own parolee field file subject to applicable federal and state law. Text also clarifies, for security purposes, that the parolee will not be provided access to a computer to view any of his or her electronic records, if applicable, but instead will have a printed copy made available.

New Subsection 3640(d) is adopted to establish that no parolee or their attorney or the attorney's designee shall access information designated confidential pursuant to section 3321 which is in or from the parolee's field file. This change removes any conflict with other regulations concerning confidential information.

New Subsection 3640(e) is adopted to establish that an attorney or the attorney's designee, hired to or appointed to represent a parolee in the parole revocation process, may review the parolee's field file, subject to applicable federal and state law. Text also provides that the above referenced will not provided access to a computer to view any of the parolee's electronic records, if applicable, but instead will have a printed copy mad available. This change is necessary for clarification and consistency.

New Subsection 3640(f) is adopted to include parolee field files in the restriction of the material allowed to be released to any agency or person outside the department, and to clarify what standards such records are subject to, for the integrity and confidentiality of such records. Language is added that restricts any outside person or agency that has access to these files to be subject to all legal and departmental standards for the integrity and confidentiality of those documents.

Reserved untitled Article 16 is now adopted and titled to read:

Article 16. Restitution

Existing Section 3501 is relocated to Article 16, is renumbered reserved Section 3740, and is now adopted and amended.

3730. Restitution Obligations.

The text to new adopted Section 3730 is amended to add for non-substantial clarification, the word “an” to now describe “Restitution obligations shall be considered when recommending a parolee for early discharge or when conducting “an” annual discharge review.”

Article 17. Revocation or Limited Placement Releases

3740. Release from Revocation or Limited Placement.

Section 3740 is amended for clarification and to incorporate changes that have occurred since this Section was last revised. New text provides that upon a parolee’s release from local custody, “an institution, facility, or sanction imposed program,” their assigned parole agent shall assist the parolee to return to their previous parole program or to develop a new program “based upon their particular needs or Board of Parole Hearings imposed sanction.”